

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DRALON DURAN PATTERSON, #19005762 §

Petitioner, §

V. §

No. 3:21-CV-1810-M-BK

JUDGE CARTER THOMPSON, DALLAS §
COUNTY DA, MARIAN BROWN, §
DALLAS COUNTY SHERRIF, §

Respondents. §

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States magistrate judge made findings, conclusions, and a recommendation in this case. Objections were filed.

On September 19, 2021, the magistrate judge found that Petitioner had not filed an application for writ of habeas corpus pursuant to Article 11.08 of the Texas Code of Criminal Procedure and, thus, that his pretrial habeas corpus petition under 28 U.S.C. § 2241 should be dismissed for failure to exhaust state court remedies. In his objection, Petitioner asserts that he “filed a[n] application for writ of habeas corpus pursuant to Article 11.08” in the trial court. Doc. 6 at 3. Also, he states the Fifth District Court of Appeals considered his claims and “denied [his] application and writ of habeas corpus for want of jurisdiction.” Doc. 6 at 3. In support, Petitioner cites the August 30, 2021 opinion of the Fifth District Court of Appeals dismissing his original writs of habeas corpus for lack of jurisdiction. *See In re Patterson*, Nos. 05-21-00579-CV, 05-21-00580-CV, 05-21-00581-CV, 05-21-00582-CV (Tex. App.—Dallas Aug. 30, 2021) (“We do not have jurisdiction to consider an *original petition for writ of habeas corpus* arising

from a criminal proceeding.” (emphasis added)).

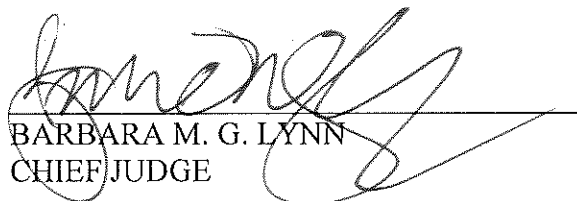
Contrary to Petitioner’s assertions those writs were original writs of habeas corpus *not* Article 11.08 writs. In an abundance of caution, the Court called the Dallas County District Clerk’s Office and confirmed that Patterson filed no Article 11.08 writ with the trial court. Indeed no Article 11.08 writ appears on his criminal docket sheets, which are available on the Dallas County website. In addition, his criminal cases are now set for jury trial on October 27, 2021, and Petitioner withdrew all his previous *pro se* motions on October 20, 2021. Based on this record, the court finds that Petitioner’s pretrial habeas claims remain unexhausted.

The court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. After a *de novo* review of those portions of the proposed findings, conclusions, and recommendation to which objection was made, the court **OVERRULES** Petitioner’s objection.

Finding no error, the court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the petition for writ of habeas corpus is **DISMISSED** WITHOUT PREJUDICE for failure to exhaust state court remedies.

SO ORDERED this 26 day of October, 2021.


BARBARA M. G. LYNN
CHIEF JUDGE